IN THE HIGH COURT OF KERALA AT ERNAKULAM

PRESENT :

THE HONOURABLE MR. JUSTICE KURIAN JOSEPH
&
THE HONOURABLE MR. JUSTICE HARUN-UL-RASHID

THURSDAY, THE 18TH OCTOBER 2007 / 26TH ASWINA 1929

LA.App.No. 399 of 2002(D)
&
CROSS OBJECTION 108 OF 2004

LAR.207/1998 of SUB COURT, KOZHIKODE
.....

APPELLANT/RESPONDENT:

STATE OF KERALA.

BY SRI.RAJAN JOSEPH, ADDL.A.G.
GOVERNMENT PLEADER SMT. K.R. DEEPA.

RESPONDENTS/CLAIMANTS:
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1. **SAVITHRI, W/O. LATE VASU,**
   KOLLARAMBATH HOUSE, P.O. VENGERI,
   KOZHIKODE TALUK.

2. **VALSALA, W/O. SIVADASAN,**
   CHERUKANDI PARAMBA, RARICHAN ROAD,
   ERANHIPALAM P.O., CALICUT.

3. **SUBADRA, W/O. VISWAN,**
   CHEENACHERI VEEDU, P.O. ELATHUR, KOZHIKODE.

BY ADV. SRI. K. RADHAKRISHNAN NAIR

THIS LAND ACQUISITION APPEAL HAVING BEEN FINALLY HEARD ON 18/10/2007, THE COURT ON THE SAME DAY DELIVERED THE FOLLOWING:

KURIAN JOSEPH & HARUN-UL-RASHID, JJ.

L.A.A. NO. 399 OF 2002

&

CROSS OBJECTION NO. 108 OF 2004

Dated this the 18th day of October, 2007.

J U D G M E N T

Kurian Joseph, J.

This is an appeal filed against the judgment and decree in L.A.R. No. 207/1998 on the file of the Sub Court, Kozhikode. Acquisition is for the purpose of Calicut bye-pass. The property involved is in Elathur village.

2. The claimants sought to place reliance on Exhibit A1 judgment and decree in L.A.R. No. 71/1996. It is seen that the Advocate Commissioner had reported that the property involved in Exhibit A1 and the acquired property are similar and similarly situated. Both are of the same notification and acquired for the same purpose. There was no objection to the Commission Report. It was in such circumstance only, based on the report of the Advocate Commissioner and similarity of Exhibit A1 property, value was fixed at Rs. 15,000/- per cent. Thus we do not find any merit in the appeal filed by the State. It is accordingly dismissed.

In the cross objection the claim is for land value at Rs. 20,000/- per cent. As already noted by us above, even according to the Advocate Commissioner, the properties are similar and similarly situated as that of A1 property, for all purposes. The value that is sustained in Exhibit A1 is only Rs. 15,000/- per cent. The value in Exhibit A1 has become final in L.A.A. No. 1236/1998. There is no other evidence for the claimants. Therefore, the cross objectors are not entitled to any further enhancement. The cross objection is also dismissed.

KURIAN JOSEPH
JUDGE

HARUN-UL-RASHID
JUDGE

smp

KURIAN JOSEPH &
HARUN-UL-RASHID, JJ.

L.A.A. NO. 399 OF 2002
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J U D G M E N T

18.10.2007